



April 17, 2015

National Freedom of Information Officer
U.S. EPA, FOIA and Privacy Branch
1200 Pennsylvania Ave., N.W. (2822T)
Washington, D. C. 20460

Dear Sir or Ms.:

By copy of this letter, I am filing a formal appeal of the response to EPA Freedom of Information Act request EPA R10-2015-004409, dated March 30, 2015. In my original request, dated January 23, 2015 (copy enclosed), I requested a copy of the assessment of data quality, as outlined in Section 4.1, item (6) of EPA's *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Environmental Protection Agency*. I requested this required data assessment for the following documents:

1. *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska, and*
2. *Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(C) of the Clean Water Act Pebble Deposit Area, Southwest Alaska.*

Review of my January 23, 2015 letter will show that my request was related specifically to these two documents.

My appeal of EPA FOIA response is based on the following topics:

1. In EPA's response they claim that they did not know for which documents I was specifically requesting this data quality assessment(s). My letter specifically outlines which documents for which I was requesting this information. Identification of the subject documents is clearly identified in the last paragraph on page 1 of my January 23, 2015 letter. EPA's claim that they did not know which documents were of interest is preposterous.
2. EPA's response to my request for this data quality assessment was to provide a list of the documents EPA has published regarding the Bristol Bay Watershed Assessment. This response is both insulting and totally inappropriate. The data quality assessment that I am seeking applies specifically to the data used to prepare the first external draft of the Bristol Bay Watershed Assessment and eventually the Proposed Determination, not every document published by EPA relating to Bristol Bay. EPA's logic that all of these documents somehow contain an analysis of data quality is absurd and not based in fact or reality. Also, it is preposterous for EPA to claim that just because they published a document that the data and subsequent analysis contained within these documents are based on quality data. For example, in the First External Draft of the Bristol Bay Watershed Assessment, EPA made numerous assumptions and drew conclusions based on no empirical data, even though site-specific empirical data was available to EPA from the Pebble Limited Partnership's Environmental Baseline Document. The same problem

exists for the baseline ecological characterization for anadromous fish (contained in Appendix A of EPA's First External Draft) which again fails to use any of the some 6,500 pages of site-specific fish information and instead relies on published literature that is outdated or inappropriate for the geographic area in question. Again, I am seeking the assessment of data quality that was used to prepare the First External Draft of the Bristol Bay Watershed Assessment.

3. In my letter, I requested as my item number 2 the documentation of who approved the data quality assessment that I requested in my item 1. EPA's response was that they do not have records "that are responsive to this portion of your request." In my January 23, 2015 letter, I point out that Section 4.1 of EPA's *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Environmental Protection Agency*, states that EPA will appoint a quality assurance manager or equivalent to conduct independent oversight of the data quality system. For EPA to claim they do not have any records is false. Someone in the agency has responsibility for data quality and certainly someone had to approve the quality of data used in preparing the first external review draft. This point is particularly relevant, since the Appendix A baseline ecological characterization, which is stated to describe the baseline ecological conditions, was prepared under contract to EPA.

I again repeat my original FOIA request as stated in my January 23, 2015 letter. I sincerely hope that EPA will give my request a serious and timely consideration. I look forward to your prompt response.

Sincerely,

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